

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

**VOLVO TRADEMARK HOLDING)
AKTIEBOLAGET, a Swedish)
corporation; VOLVO)
CONSTRUCTION EQUIPMENT)
NORTH AMERICA, INC., a)
Delaware corporation; and)
CHAMPION ROAD MACHINERY)
LIMITED, a Canadian)
corporation,)**

Plaintiffs,)

v.)

CIVIL NO. 1:00CV238

**CLM EQUIPMENT COMPANY,)
INC., a Texas corporation;)
FUTURE EQUIPMENT)
COMPANY, INC., a Texas)
corporation; and CLARK)
MACHINERY COMPANY, an)
Arkansas corporation,)**

Defendants.)

**CLM EQUIPMENT COMPANY,)
INC., a Texas corporation;)
FUTURE EQUIPMENT)
COMPANY, INC., a Texas)
corporation; and CLARK)
MACHINERY COMPANY, an)
Arkansas corporation,)**

Plaintiffs,)

)	
v.)	
)	CIVIL NO. 1:01CV232
VOLVO TRADEMARK HOLDING)	
AKTIEBOLAGET, a Swedish)	
corporation; VOLVO)	
CONSTRUCTION EQUIPMENT)	
NORTH AMERICA, INC., a)	
Delaware corporation; and)	
CHAMPION ROAD MACHINERY)	
LIMITED, a Canadian)	
corporation,)	
)	
Defendants.)	
_____)	

ORDER

THESE MATTERS are before the Court on a motion by Volvo Construction Equipment North America, Inc., and Champion Road Machinery Limited (collectively “Volvo”) for reconsideration by the Court of its Memorandum and Order affirming the Clerk’s decision to deny the award of costs to Volvo. The motion is denied.

Volvo argues that the Court’s denial of its request for an award of fees rested on the fact that the bill of costs “was submitted by way of a declaration under penalty of perjury rather than a notarized affidavit.”

Volvo’s Motion to Reconsider, filed July 23, 2008, at 2. Volvo further states that federal law provides that a declaration made under penalty of

perjury may be used in lieu of an affidavit, citing 28 U.S.C. § 1746. *Id.*

Defendant Clark Machinery Company (“Clark”) counters that “Volvo’s latest motion to reconsider contains a new argument based upon a statute that existed at the time of its first motion to reconsider” was filed. **Clark’s Opposition to Volvo’s Motion to Reconsider, filed July 24, 2008, at 2-4.**

The Court agrees. Volvo has had ample opportunity to present arguments over the time that the issue of Taxation of Costs was before the Clerk and then this Court on review. **See Memorandum and Order, filed June 27, 2008, at 1.** Indeed, Volvo had every opportunity to advance their latest argument in the motion for reconsideration filed on February 22, 2008, and by way of a reply to Clark’s opposition filed March 10, 2008. However, no such argument was raised until now. “When parties file a motion with the court, they are obligated to insure that it is complete with respect to facts, law and advocacy.” **Potter v. Potter, 199 F.R.D. 550, 553 (D. Md. 2001).** “Were it otherwise, then there would be no conclusion to motions practice, each motion becoming nothing more than the latest installment in a potentially endless serial that would exhaust the resources of the parties and the court[.]” *Id.*

IT IS, THEREFORE, ORDERED that Volvo's motion for reconsideration of the Court's June 27, 2008, Memorandum and Order is **DENIED.**

Signed: July 31, 2008

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

